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Application No.: 10/788,860

Docket No. LOT920040015US1 (7321-046U)

PATENT

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re Application of	:	Customer Number: 46321
	:	
William C. BARLOW	:	Confirmation Number: 7207
	:	
Application No.: 10/788,860	:	Group Art Unit: 2144
	:	
Filed: February 27, 2004	:	Examiner: Muktesh G. Gupta
	:	
For: POLICY BASED PROVISIONING OF WEB CONFERENCES		

APPEAL BRIEF

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This Appeal Brief is submitted in support of the Notice of Appeal filed May 28, 2008, wherein Appellant appeals from the Examiner's rejection of claims 1-4 and 6-17.

I. REAL PARTY IN INTEREST

This application is assigned to International Business Machines Corporation by assignment recorded on February 27, 2004, at Reel 015032, Frame 0386.

II. RELATED APPEALS AND INTERFERENCES

Appellant is unaware of any related appeals and interferences.

III. STATUS OF CLAIMS

Claim 5 was cancelled. Claims 1-4 and 6-17 are pending in this Application and have been twice rejected. It is from the multiple rejections of claims 1-4 and 6-17 that this Appeal is taken.

IV. STATUS OF AMENDMENTS

The claims have not been amended subsequent to the imposition of the Final Office Action dated February 20, 2008 (hereinafter the Final Office Action).

V. SUMMARY OF CLAIMED SUBJECT MATTER

Referring to Figure 1 and also to independent claim 1, a system for the policy based provisioning of a Web conference is disclosed (lines 1-3 of paragraph [0018] of Appellant's disclosure). One or more conferencing policies 170 can be established which describe when to provision a Customer Premises Equipment (CPE) implemented Web conference and when to provision a hosted Web conference, based upon the conferencing criteria (lines 3-7 of paragraph [0018] and lines 7-10 of paragraph [0020]). A policy manager 140 can be configured to process the conferencing policies 170, to process a request for a Web conferencing from a communicatively linked end user 110, 150, and select either a CPE implemented Web conference or a hosted Web conference (lines 5-14 of paragraph [0020]). The conferencing criteria can include considerations such as the number of participants, the location of the participants, the level of required security, the date and time of day of the conference, and the capacity of the CPE servers at a particular time of day or date (lines 7-12 of paragraph [0018]).

Referring to Figure 2 and also to independent claim 8, a method for the policy based provisioning of a Web conference is disclosed (lines 1-3 of paragraph [0021]). In block 210, a conference request can be received (lines 3-4 of paragraph [0021]). The conference request can be initiated by an authorized end user to schedule a Web conference for a particular date and time with a particular group of participants or type of participants (lines 4-7 of paragraph [0021]). In block 220, a selection of questions representing criteria for the proposed Web conference can be posed to the requesting end user (lines 7-9 of paragraph [0021]). If in decision block 230, the end user has completed answering the posed questions, in block 240 one or more policies can be retrieved for determining a suitable platform for hosting the requested Web conference (lines 1-4 of paragraph [0022]). In block 250, the answers to the posted questions representing the criteria of the requested Web conference can be processed along with the retrieved policy or policies (lines 5-7 of paragraph [0022]). Consequently, in block 260 a platform can be selected to host the Web conference, for instance a CPE based platform or a hosted platform (lines 8-10 of paragraph [0022]). In block 270, one or more invitations can be generated for delivery to the proposed participants in the requested Web conference (lines 1-3 of paragraph [0023]). As an example, an e-mail can be generated which incorporates a hyperlink to the selected platform for the Web conference along with an identifier for the Web conference (lines 3-6 of paragraph [0023]). In this regard, in block 280 a hyperlink to the Web conference can be imbedded in the invitations and in block 290, the invitations can be forwarded to the invited participants (lines 6-9 of paragraph [0023]).

Referring to Figure 2 and also to independent claim 13, a machine readable storage device storing a computer program for Web conference provisioning is disclosed (lines 1-3 of paragraph [0021]). The computer program can include a routine set of instructions which when executed by a machine causes the machine to perform a method of Web conference provisioning. In block 210, a conference request can be received (lines 3-4 of paragraph [0021]). The conference request can be initiated by an authorized end user to schedule a Web conference for a particular date and time with a particular group of participants or type of participants (lines 4-7 of paragraph [0021]). In block 220, a selection of questions representing criteria for the proposed Web conference can be posed to the requesting end user (lines 7-9 of paragraph [0021]). If in decision block 230, the end user has completed answering the posed questions, in block 240 one or more policies can be retrieved for determining a suitable platform for hosting the requested Web conference (lines 1-4 of paragraph [0022]). In block 250, the answers to the posted questions representing the criteria of the requested Web conference can be processed along with the retrieved policy or policies (lines 5-7 of paragraph [0022]). Consequently, in block 260 a platform can be selected to host the Web conference, for instance a CPE based platform or a hosted platform (lines 8-10 of paragraph [0022]). In block 270, one or more invitations can be generated for delivery to the proposed participants in the requested Web conference (lines 1-3 of paragraph [0023]). As an example, an e-mail can be generated which incorporates a hyperlink to the selected platform for the Web conference along with an identifier for the Web conference (lines 3-6 of paragraph [0023]). In this regard, in block 280 a hyperlink to the Web conference can be imbedded in the invitations and in block 290, the invitations can be forwarded to the invited participants (lines 6-9 of paragraph [0023]).

VI. GROUNDS OF REJECTIONS TO BE REVIEWED ON APPEAL

1. Claims 1-4 and 6-17 have been rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,564,261 to Gudjonsson et al., (hereinafter Gudjonsson).

VII. THE ARGUMENT

THE REJECTION OF CLAIMS 1-4 AND 6-17 UNDER 35 U.S.C. § 102 FOR ANTICIPATION BASED UPON GUDJONSSON

For the convenience of the Honorable Board in addressing the rejections, claims 3-4 and 6-7 stand or fall together with independent claim 1; claim 2 stands or falls alone; claims 9-12 stand or fall together with independent claim 8; and claims 14-17 stand or fall together with independent claim 13.

As is evident from Appellant's previously-presented comments during prosecution of the present Application and from Appellant's comments below, there are questions as to how the limitations in the claims correspond to features in the applied prior art. In this regard, reference is made to M.P.E.P. § 1207.02, entitled "Contents of Examiner's Answer." Specifically, the following is stated:

(A) CONTENT REQUIREMENTS FOR EXAMINER'S ANSWER. The examiner's answer is required to include, under appropriate headings, in the order indicated, the following items:

...

(9)(e) For each rejection under 35 U.S.C. 102 or 103 where there are questions as to how limitations in the claims correspond to features in the prior art even after the examiner complies with the requirements of paragraphs (c) and (d) of this section, the examiner must compare at least one of the rejected claims feature by feature with the prior art relied on in the rejection. The comparison must align the language of the claim side-by-side with a reference to the specific page, line number, drawing reference number, and quotation from the prior art, as appropriate. (emphasis added).

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Therefore, if the Examiner is to maintain the present rejections and intends to file an Examiner's Answer, the Examiner is required to include the aforementioned section in the Examiner's Answer.

The factual determination of anticipation under 35 U.S.C. § 102 requires the identical disclosure, either explicitly or inherently, of each element of a claimed invention in a single reference.¹ Moreover, the anticipating prior art reference must describe the recited invention with sufficient clarity and detail to establish that the claimed limitations existed in the prior art and that such existence would be recognized by one having ordinary skill in the art.²

“Both anticipation under § 102 and obviousness under § 103 are two-step inquiries. The first step in both analyses is a proper construction of the claims. ... The second step in the analyses requires a comparison of the properly construed claim to the prior art.”³ During patent examination, the pending claims must be “given their broadest reasonable interpretation consistent with the specification,”⁴ and the broadest reasonable interpretation of the claims must also be consistent with the interpretation that those skilled in the art would reach.⁵ Therefore, the Examiner must (i) identify the individual elements of the claims and properly construe these individual elements,⁶ , and (ii) identify corresponding elements disclosed in the allegedly

¹ In re Rijckaert, 9 F.3d 1531, 28 USPQ2d 1955 (Fed. Cir. 1993); Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989); Perkin-Elmer Corp. v. Computervision Corp., 732 F.2d 888, 894, 221 USPQ 669, 673 (Fed. Cir. 1984).

² See In re Spada, 911 F.2d 705, 708, 15 USPQ 1655, 1657 (Fed. Cir. 1990); Diversitech Corp. v. Century Steps Inc., 850 F.2d 675, 678, 7 USPQ2d 1315, 1317 (Fed. Cir. 1988).

³ Medichem, S.A. v. Rolabo, S.L., 353 F.3d 928, 933 (Fed. Cir. 2003) (internal citations omitted).

⁴ In re Hyatt, 211 F.3d 1367, 1372, 54 USPQ2d 1664, 1667 (Fed. Cir. 2000).

⁵ In re Cortright, 165 F.3d 1353, 1359, 49 USPQ2d 1464, 1468 (Fed. Cir. 1999)

⁶ See also, Panduit Corp. v. Dennison Mfg. Co., 810 F.2d 1561, 1567-68 (Fed. Cir. 1987) (In making a patentability determination, analysis must begin with the question, "what is the invention claimed?" since "[c]laim interpretation, . . . will normally control the remainder of the decisional process"); see Gechter v. Davidson, 116 F.3d 1454, 1460 (Fed. Cir. 1997) (requiring explicit claim construction as to any terms in dispute).

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anticipating reference and compare these allegedly corresponding elements to the individual elements of the claims.⁷ This burden has not been met. In this regard, the Examiner's rejection under 35 U.S.C. § 102 also fails to comply with 37 C.1 F.R. § 1.104(c).⁸

Claim 1

Independent claim 1 recites, in part, “a policy manager coupled to at least two different Web conferencing platforms over a computer communications network, said policy manager having a configuration for processing a policy set forth in a policy document and for processing a request for a Web conferencing.”

To teach this limitation, the Examiner cited col. 11, lines 27-30 and col. 28, lines 8-11 of Gudjonsson. For ease of reference, the Examiner's cited passages are reproduced below:

The only limitation is that the cluster operator can configure the inter-cluster service to only allow remote access to a limited set of services. Thus operator specific value added services can be made exclusive for a given cluster. (emphasis added)

And;

For every user 7, a certain set of data is stored. The data is kept in key/value pairs call properties. These can be global for everyone to see, private only accessible for the user himself or it can be access controlled. FIG. 18b illustrates a data structure for a user profile according to an embodiment of this invention. (emphasis added)

How these passages identically disclose the claimed invention is entirely unclear.

On page 4, first full paragraph, the Examiner asserts:

Gudjonsson teaches cluster **operators/managers** using the user **management functions to configure** the inter-cluster service to allow remote access to a **set of services (web conference service)** requested by the user... (emphasis original)

⁷ Lindermann Maschinenfabrik GMBH v. American Hoist & Derrick Co., 730 F.2d 1452, 221 USPQ 481 (Fed. Cir. 1984).

⁸ 37 C.1 F.R. § 1.104(c) provides:

In rejecting claims for want of novelty or for obviousness, the examiner must cite the best references at his or her command. When a reference is complex or shows or describes inventions other than that claimed by the applicant, the particular part relied on must be designated as nearly as practicable. The pertinence of each reference, if not apparent, must be clearly explained and each rejected claim specified.

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Appellant respectfully disagrees with the Examiner's assertion. Even if one assumes that the "cluster operators/managers" can "configure" the "inter-cluster service to allow remote access to a set of services", the inter-cluster service is still not a "policy manager having a configuration for processing a policy set forth in a policy document and for processing a request for a Web conferencing," as recited in independent claim 1. In fact, there is no discussion in the cited passages of "processing a policy, set forth in a policy document" for "Web conference provisioning" between "at least two different Web conferencing platforms" as recited in claim 1. Therefore, the Examiner has failed to establish that Gudjonsson identically discloses the claimed invention, as recited in claim, within the meaning of 35 U.S.C. § 102. Appellant respectfully requests that the Honorable Board reverse this rejection.

Claim 2

Regarding the claimed wherein said at least two different Web conferencing platforms comprise a platform selected from the group consisting of a customer premises equipment based platform and a hosted platform, the Examiner relied upon col. 2, lines 51-67 of Gudjonsson. However, referring to col. 2, lines 51-67 of Gudjonsson, the conferencing platforms all appear to be platforms within a specific "cluster" and therefore only customer premises equipment based and not a web hosted platform. Therefore, the Examiner has failed to establish that Gudjonsson identically discloses the claimed invention, as recited in claim, within the meaning of 35 U.S.C. § 102. Appellant respectfully requests that the Honorable Board reverse this rejection.

Claim 8

Independent claim 8 recites, in part, “establishing criteria for a proposed Web conference, and applying at least one policy to said criteria to identify a platform for hosting said proposed Web conference.”

To teach this limitation, the Examiner cited col. 1, lines 12-15 of Gudjonsson. For ease of reference, the Examiner’s cited passages are reproduced below:

This invention is related to a system and corresponding method of establishing communication session(s) between users as a function of their availability and/or communication device(s).

Appellant asserts that the cited passage fails to disclose “applying at least one policy” as recited in independent claim 8, as known to one of reasonable skill in the art, and discussed in Appellant’s specification. More specifically, a “policy can specify a platform selection based upon Web conference criteria, [which] ... can include a number of participants to the Web conference, whether the participants are internal or external to a private network of the end user, ... a priority of the Web conference” (lines 2-9 of paragraph [0011] of Appellant’s specification).

Claims 9 and 10

Dependent claims 9 and 10 refer to independent claim 8. Specifically, claim 9 refers to “resolving an address to said identified platform, imbedding said address in an invitation to participate in said proposed Web conference, and forwarding said invitation to selected participants in said proposed Web conference.” To teach these limitations, the Examiner cited col. 3, lines 14-27 and lines 28-36 of Gudjonsson. For ease of reference, the Examiner’s cited passages are reproduced below:

The routing service allows users to send invitations to other users to establish an arbitrary communication session (e.g., text chat session, voice chat session, web conference, etc.) over arbitrary networks. The requests are not sent directly between users. Instead, the routing service for the sending/inviting user sends the invitation to the routing service for the receiving user. The

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routing service for the receiving user determines, according to a logic specified by the same receiving user, how the request is handled and what services are available to handle the request. For example, the routing service for the receiving user may forward the invitation to the receiving user's client, may ignore the invitation, may forward the invitation to the receiving user's mobile phone, or may forward the invitation to the receiving user's inbox so that the user may later read the invitation.

The cluster and services within it make the necessary minimum setup for the session to be established, and **thus no network addresses need to be exchanged between the users**, thus retaining the anonymity of the users. As users can be software entities as well as persons, the system allows communication sessions between users and arbitrary data services. In certain embodiments, the system does not need a central database of all users to function, but clusters can forward requests to other clusters, and thus insure the connectivity of all clusters within the system. (emphasis added)

The cited passage of Gudjonsson fails to disclose “imbedding said address in an invitation to participate in said proposed Web conference.” To the contrary, the cited passage of Gudjonsson appears to teach that no imbedded “network addresses [are] exchanged between the users. Based on the teachings of the Examiner’s cited passage, Appellant’s position is that Gudjonsson fails to teach all the limitations of claim 9.

Moreover, dependent claim 10 refers to independent claim 8. Specifically, claim 10 refers to “re-establishing said criteria, and applying said at least one policy to said re-established criteria to identify a different platform for hosting said proposed Web conference.” To teach these limitations, the Examiner cited col. 3, lines 14-27 and lines 28-36 of Gudjonsson as shown above. Appellant, however, is unclear as to the exact teaching that correspond to the claimed “re-establishing said criteria, and applying said at least one policy to said re-established criteria to identify a different platform for hosting said proposed Web conference.” Based on the teachings of the Examiner’s cited passage, Appellant’s position is that Gudjonsson fails to teach all the limitations of claim 10.

Claim 13

Independent claim 13 recites, in part, “establishing criteria for a proposed Web conference, and applying at least one policy to said criteria to identify a platform for hosting said proposed Web conference.”

To teach this limitation, the Examiner cited col. 1, lines 12-15 of Gudjonsson. For ease of reference, the Examiner’s cited passages are reproduced below:

This invention is related to a system and corresponding method of establishing communication session(s) between users as a function of their availability and/or communication device(s).

Appellant asserts that the cited passage fails to disclose “applying at least one policy” as recited in independent claim 8, as known to one of reasonable skill in the art, and discussed in Appellant’s specification. More specifically, a “policy can specify a platform selection based upon Web conference criteria, [which] ... can include a number of participants to the Web conference, whether the participants are internal or external to a private network of the end user, ... a priority of the Web conference” (lines 2-9 of paragraph [0011] of Appellant’s specification).

Claims 14 and 15

Claims 14 and 15 refer to independent claim 13 and have similar elements as claims 9 and 10, therefore Appellant incorporates those arguments here and at least for those reasons, the Examiner’s cited passages fail to teach the limitations of claims 14 and 15.

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Conclusion

Based upon the foregoing, Appellant respectfully submits that the Examiner's rejections under 35 U.S.C. § 102(b) are not viable. Appellant, therefore, respectfully solicits the Honorable Board to reverse the Examiner's rejections under 35 U.S.C. § 102(b).

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 50-3829, and please credit any excess fees to such deposit account.

Date: July 28, 2008

Respectfully submitted,

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VIII. CLAIMS APPENDIX

1. A Web conference provisioning system comprising a policy manager coupled to at least two different Web conferencing platforms over a computer communications network, said policy manager having a configuration for processing a policy set forth in a policy document and for processing a request for a Web conferencing from a communicatively linked end user to select one of said Web conferencing platforms to host said Web conference.
2. The system of claim 1, wherein said at least two different Web conferencing platforms comprise a platform selected from the group consisting of a customer premises equipment based platform and a hosted platform.
3. The system of claim 1, further comprising a firewall disposed between said end user and said policy manager.
4. The system of claim 1, further comprising a demilitarized zone firewall disposed in between said policy manager and end users coupled to said policy manager of a public Internet.
5. Cancelled.
6. The system of claim 1, wherein said at least one policy specifies a platform selection based upon criteria selected from the group consisting of a number of participants to said Web conference, whether said participants are internal or external to a private network of said end

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user, a set of features desired for use in said Web conference, a security level required for said Web conference, and a priority of said Web conference.

7. The system of claim 6, wherein said set of features comprises at least one feature selected from the group consisting of screen sharing, slideshow presentations, streaming audio, voice over IP, audio conferencing, the use of on-premise audio equipment, audio recording, joint Web browsing, chat and instant messaging and streaming video.

8. A Web conference provisioning method comprising the steps of:
establishing criteria for a proposed Web conference; and,
applying at least one policy to said criteria to identify a platform for hosting said proposed Web conference.

9. The method of claim 8, further comprising the steps of:
resolving an address to said identified platform;
imbedding said address in an invitation to participate in said proposed Web conference;
and,
forwarding said invitation to selected participants in said proposed Web conference.

10. The method of claim 8, further comprising the steps of:
re-establishing said criteria; and,
applying said at least one policy to said re-established criteria to identify a different platform for hosting said proposed Web conference.

11. The method of claim 8, further comprising the step of performing said establishing and applying steps responsive to a request to schedule said proposed Web conference.

12. The method of claim 8, further comprising the step of performing said establishing and applying steps when activating said proposed Web conference.

13. A machine readable storage having stored thereon a computer program for Web conference provisioning, the computer program comprising a routine set of instructions which when executed by a machine causes the machine to perform the steps of:

establishing criteria for a proposed Web conference; and,

applying at least one policy to said criteria to identify a platform for hosting said proposed Web conference.

14. The machine readable storage of claim 13, further comprising the steps of:

resolving an address to said identified platform;

imbedding said address in an invitation to participate in said proposed Web conference;

and,

forwarding said invitation to selected participants in said proposed Web conference.

15. The machine readable storage of claim 13, further comprising the steps of:

re-establishing said criteria; and,

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applying said at least one policy to said re-established criteria to identify a different platform for hosting said proposed Web conference.

16. The machine readable storage of claim 13, further comprising the step of performing said establishing and applying steps responsive to a request to schedule said proposed Web conference.

17. The machine readable storage of claim 13, further comprising the step of performing said establishing and applying steps when activating said proposed Web conference.

IX. EVIDENCE APPENDIX

No evidence submitted pursuant to 37 C.F.R. §§ 1.130, 1.131, or 1.132 of this title or of any other evidence entered by the Examiner has been relied upon by Appellant in this Appeal, and thus no evidence is attached hereto.

X. RELATED PROCEEDINGS APPENDIX

Since Appellant is unaware of any related appeals and interferences, no decision rendered by a court or the Board is attached hereto.